

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ATAKEKS FOREIGN TRADE LTD., JORDAN and
ATAKEKS DIS TICARET, A.S.,

Plaintiffs,

-against-

PRIVATE LABEL SOURCING, LLC and SECOND SKIN, LLC,
Defendants.

-----x
MAY 27, 2008
9:15 a.m.

DEPOSITION of IHSAN ARSLAN, via Live Circuit
TV, a party herein, taken by Philip A. Byler, held at
LAW OFFICES OF ERIC J. GRANNIS, 620 Fifth Avenue, New
York, New York, before NANCY SILBERGER, a Notary Public
for and within the State of New York.

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(2) A P P E A R A N C E S:

(3)

(4) LAW OFFICES OF ERIC J. GRANNES, ESQ.
Attorneys for Plaintiffs
(5) 620 Fifth Avenue, 5th Floor
New York, New York 10021
(6) BY: ERIC J. GRANNES, ESQ.

(7)

(8)

(9) NESENOFF & MILTENBERG, LLP
Attorneys for Defendants
(10) 363 Seventh Avenue, 5th Floor
New York, New York 10001
(11) BY: PHILIP A. BYLER, ESQ.

(12)

(13) Also Present: ALP DUMAN (In New York)
ILHAN ARSLAN (In Turkey)

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that all rights provided by the C.P.L.R., including the right to object to any question, except as to the form, or to move to strike any testimony at this examination, are reserved; and, in addition, the failure to object to any question or to move to strike testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved for, the trial of this action.

IT IS FURTHER STIPULATED AND AGREED that this examination may be sworn to, by the witness being examined, before a Notary Public other than the Notary Public before whom this examination was begun, but the failure to do so, or to return the original of this examination to counsel, shall not be deemed a waiver of the rights provided by Rule 3116, C.P.L.R., and shall be controlled thereby.

IT IS FURTHER STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that a copy of this Examination Before Trial shall be furnished without charge to the attorneys representing the witness testifying herein.

(1) I. ARSLAN

(2) RQ I H S A N A R S L A N, having first

(3) been duly sworn by a Notary Public for and

(4) within the State of New York, upon being

(5) examined, testified as follows:

(6) EXAMINATION BY

(7) MR. BYLER:

(8) Q. Would you please state your name for the

(9) record?

(10) A. Ihsan Arslan.

(11) Q. Could you spell that for the court

(12) reporter?

(13) A. I-H-S-A-N A-R-S-L-A-N.

(14) Q. Would you please state for the record

(15) your business address?

(16) A. Business address, C-A-M-S-K-A-K, Number

(17) 26, M-E-R-T-E-R, Istanbul.

(18) Q. What is your current employment

(19) position?

(20) A. I am the CEO of the company.

(21) Q. Would you explain what you mean by "CEO

(22) of the company"?

(23) A. I am president of the company.

(24) Q. What company is that?

(25) A. Atateks.

(1) I. ARSLAN

(2) Q. Could you describe what Atateks is?

(3) A. Atateks is a textiles company
(4) manufacturing fabrics, garments, with around 1,500
(5) people at the moment.

(6) Q. I will return to Atateks in a moment.

(7) First, I want to get your additional
(8) educational background.

(9) A. I studied in the U.K. I am a textile
(10) engineer.

(11) Q. Did you receive a degree from any
(12) university?

(13) A. From?

(14) Q. Any university, any college or
(15) university?

(16) A. Yes, university. University of Leeds in
(17) the U.K.

(18) Q. Can you spell that name?

(19) A. L-E-E-D-S.

(20) Q. When did you receive that degree?

(21) A. 1980.

(22) Q. After you received that degree, what did
(23) you do?

(24) A. I worked in the -- which is in the
(25) textile business. I start working in the textile

(1) I. ARSLAN

(2) business.

(3) Q. What did you do when you started working
(4) in the textile business?

(5) A. I am the manager, plant manager.

(6) Q. What company were you with? I'm sorry,
(7) what was the last answer you gave?

(8) A. Trading manager.

(9) Q. What company were you with?

(10) A. Edipiilik. It's a long time ago. It
(11) was 1980s.

(12) Q. Can you give at least an approximate
(13) spelling of the name?

(14) A. Sir, I couldn't get it.

(15) Q. Could you give at least an approximate
(16) spelling of the name?

(17) A. E-D-I-P-I-P-L-I-K.

(18) Q. Did there come a time when you left that
(19) company?

(20) A. Sorry?

(21) Q. Did there come a point in time that you
(22) left that company that you just spelled?

(23) A. Sorry, can you say it again?

(24) Q. Did there come a point in time when you
(25) left that company that you just spelled?

(1) I. ARSLAN

(2) A. Yes.

(3) Q. When was that?

(4) A. Well, long time ago. It was in 1983 or

(5) '84.

(6) Q. What did you do then?

(7) A. I worked as a plant manager at another

(8) textile company.

(9) Q. What company was that?

(10) A. Eren Textiles.

(11) Q. Could you spell that name?

(12) A. E-R-E-N Textiles.

(13) Q. Did there come a point in time when you

(14) left that company?

(15) A. Sorry?

(16) Q. Did there come a point in time when you

(17) left that company where you were a plant manager?

(18) Did you leave that company?

(19) A. Yes, yes.

(20) Q. When?

(21) A. When. After around two years of

(22) service.

(23) Q. And then what did you do?

(24) A. Then I moved back to Istanbul. After

(25) marriage, I had to come back to Istanbul and I

(1) I. ARSLAN

(2) start working as a trading manager at another

(3) company.

(4) Q. What company was that?

(5) A. It was Bilkont.

(6) Q. When did Atateks get formed?

(7) A. 1990. 1990

(8) MR. GRANNES: Could you spell the name

(9) of that company?

(10) THE WITNESS: B-I-L-K-O-N-T.

(11) Q. What did you do at that company?

(12) A. I was a trading manager of the company.

(13) Q. Did you leave that company?

(14) A. Yes. Because it was time for me, having

(15) had enough experience, to set up my own company.

(16) Q. Did you do so?

(17) A. Yes.

(18) Q. Was that --

(19) A. With good relationship, yes.

(20) Q. Was that Atateks?

(21) A. Yes.

(22) Q. And Atateks was formed in about 1990?

(23) A. Yes.

(24) Q. When you formed Atateks, did you do that

(25) by yourself?

(1) I. ARSLAN

(2) A. You cannot form a company by yourself.

(3) You need to have some people as partners. But I

(4) was the main shareholder.

(5) Q. Who were the other shareholders?

(6) A. My wife.

(7) Q. Anybody else?

(8) A. I don't remember. It was long time now.

(9) Q. Did there come a time when your brother,

(10) Ilhan, joined Atateks?

(11) A. Sorry, can you repeat?

(12) Q. Did there come a time when your brother,

(13) Ilhan, joined Atateks?

(14) A. Yes, he joined Atateks. Atateks -- we

(15) have more than one company. We have a few

(16) companies. He joined some of them.

(17) Q. When?

(18) A. I don't remember.

(19) Q. What are the companies that are included

(20) in the Atateks company?

(21) A. You mean the name of the companies?

(22) Q. Yes.

(23) A. There are six companies at the moment:

(24) Atateks -- if I spell them, it will take long time.

(25) Atateks textile --

(1) I. ARSLAN

(2) MR. GRANNES: For the record, we'll
(3) provide the names of the companies in written
(4) form so you don't have to spell them. Please
(5) send us an e-mail with the names of the
(6) companies sometime tomorrow. Thank you.

(7) THE WITNESS: Okay. Thank you.

(8) Q. When was the first time that you learned
(9) of a company by the name of Private Label Sourcing?

(10) A. I don't remember. We -- our business is
(11) garment business. It was started about 10 years
(12) ago.

(13) Q. Was that in the late 1990s?

(14) A. Yes.

(15) Q. And how did Atateks start its seamless
(16) garment business?

(17) A. Well, we are textile group. So having
(18) thought that seamless going to be a trend in
(19) business, starting from Italy, we started investing
(20) into seamless business by buying. And today we are
(21) having around 170 machines. Is the biggest
(22) machines in Europe.

(23) Q. As the CEO or president of Atateks, in
(24) the normal course of business, do you deal with
(25) specific customers of Atateks?

(1) I. ARSLAN

(2) A. I don't.

(3) Q. Who does?

(4) A. For each business, we have business

(5) managers, also called general managers.

(6) Q. Was there a business manager or general

(7) manager who dealt with Private Label Sourcing?

(8) A. For our seamless business, Ilhan was our

(9) general manager for some time.

(10) Q. Ilhan is your brother?

(11) A. Yes.

(12) Q. Did you ever personally meet with

(13) anybody from Private Label Sourcing?

(14) A. Yes.

(15) Q. Who?

(16) A. Christine Dente.

(17) Q. Anyone else?

(18) A. There is a lady also following business

(19) of Private Label, but I don't remember her name.

(20) Q. She was also, to your understanding,

(21) employed by Private Label Sourcing? Was her

(22) name --

(23) A. Yes.

(24) Q. Was her name Nilda Nadir?

(25) A. Could be.

(1) I. ARSLAN

(2) Q. Did you ever meet with her, separate
(3) from Christine Dente?

(4) A. I don't remember.

(5) Q. How many times do you recall meeting
(6) with Christine Dente?

(7) A. Three or four times.

(8) Q. Do you recall approximately when was the
(9) first time you met with Christine Dente?

(10) A. Sorry. Can you repeat?

(11) Q. Do you recall when the first time it was
(12) that you met with Christine?

(13) A. I don't recall. I don't recall.

(14) Q. Do you recall the occasions, generally,
(15) when you met with Christine Dente, those three or
(16) four times?

(17) A. Sorry. Can you repeat again?

(18) Q. Let me try to rephrase it differently.

(19) Do you recall why it was that you met
(20) with Christine Dente when you did?

(21) A. Well, I meet with some clients --
(22) potential clients from time to time when they visit
(23) us. I welcome them, you know I say hello, if
(24) anything we could do more, these kinds of things.
(25) Just the one coming meeting.

(1) I. ARSLAN

(2) Q. Were these meetings with Christine Dente
(3) in Turkey?

(4) A. As I recall mTurkey. One or two of them
(5) was in Turkey.

(6) Q. What about the other meetings?

(7) A. Maybe one or two in New York.

(8) Q. Why, to your best recollection, was it
(9) that you met with Christine Dente in New York?

(10) A. Well, I do come to the U.S. for some
(11) business. So during one of our meetings -- I mean
(12) the visit, it was just to say hello. And last time
(13) I met with her for possible settlement meeting.

(14) Q. Do you recall how long ago that was?

(15) A. Well, it was a few months ago. It was
(16) our New York office. As I remember, with her
(17) lawyer, Mr. Miltenberg. That was the last time.
(18) That was the last time.

(19) Q. Other than --

(20) A. I mean, I never saw her since then.

(21) Q. Other than the one settlement meeting in
(22) New York where you met Christine Dente and Mr.
(23) Miltenberg, were the occasions for meeting Miss
(24) Christine Dente a matter of saying hello and
(25) welcoming her?

(1) I. ARSLAN

(2) A. There was no occasion at all.

(3) MR. GRANNES: Rephrase the question.

(4) Q. Let me rephrase the question. Your

(5) answer suggested maybe you didn't understand it.

(6) Other than the settlement meeting, did

(7) you have any discussions with Miss Dente in the

(8) other meetings you had had with her that had to do

(9) with business?

(10) A. Well, maybe by telephone -- I don't

(11) remember, but I may have called her or she may have

(12) called me right after the settlement meeting while

(13) I was in New York. Otherwise, there was no

(14) meeting, face-to-face meeting, or anything at all.

(15) Q. Okay. I'm going to ask you to just put

(16) to the side the settlement meeting. Settlement is

(17) created especially in American litigation.

(18) I want to focus instead on the other

(19) meetings you had with Miss Dente, okay. Do you

(20) understand what I just said? In those meetings

(21) that you had with Christine Dente, was there any

(22) business discussed, beyond saying hello and

(23) welcoming her?

(24) A. No. No, business discussion because I

(25) don't get involved with business details with my

(1) I. ARSLAN

(2) customers.

(3) Q. Was it your brother, Ilhan, who dealt
(4) with those details of business --

(5) A. Yes.

(6) Q. At least with respect to Private Label?

(7) A. Either Ilhan or one of our sales
(8) managers.

(9) Q. In what you do as president or CEO of
(10) Atateks, do you ever review purchase orders?

(11) A. No.

(12) Q. Do you have in front of you Defendant's
(13) Exhibit 1? Perhaps, the gentleman next to you can
(14) point that out.

(15) A. Yes.

(16) Q. Are those purchase orders from Private
(17) Label?

(18) A. I don't know. I see them first time.

(19) Q. That was going to be my next question.
(20) Do you recall seeing these purchase orders before
(21) today's deposition?

(22) A. No, no.

(23) Q. In the course of your duty as president
(24) and chief officer of Atateks, you were not in the
(25) position that you would see these kinds of purchase

(1) I. ARSLAN

(2) orders, correct?

(3) A. Because it is a business performance
(4) detail for me. I check the monthly figures and I
(5) don't get involved with the day-to-day business
(6) transactions.

(7) Q. Did there come a time in the Atateks
(8) Company when there was a decision to start
(9) manufacturing in Jordan seamless garments?

(10) A. Sorry?

(11) Q. Did Atateks Company at some point start
(12) manufacturing seamless garments in the country of
(13) Jordan?

(14) A. Yes.

(15) Q. What caused Atateks Company to decide to
(16) start manufacturing seamless garments in Jordan?

(17) A. It was a strategic decision. It was
(18) original decision advantages for the exports to the
(19) U.S. market. We have, at the time, the only
(20) possibility to do some finishing of the business in
(21) Jordan and exporting to the U.S. market without
(22) duty. The duties around 30 percent, something
(23) which is highly encouraging.

(24) Q. How did Atateks go about setting up a
(25) manufacturing operation in Jordan?

(1) I. ARSLAN

(2) A. How?

(3) Q. What did Atateks do to begin
(4) manufacturing in Jordan?

(5) A. Well, I designated our managers to
(6) following the business, or the investment in
(7) Jordan. And in those years I also visited Jordan a
(8) few times to see around the country and investment
(9) potentials and difficulties, and these kinds of
(10) things. At the beginning it was --

(11) Q. Who was the business manager for Atateks
(12) who was responsible for Jordan?

(13) A. Ilhan, the general manager of seamless
(14) company -- seamless business.

(15) Q. Can Atateks make anything other than
(16) seamless garments in Jordan?

(17) A. No, nothing.

(18) Q. What is your understanding as to what
(19) happened with respect to issues that arose with
(20) respect to the labor conditions in Jordan?

(21) A. I remember in Jordan as a whole there
(22) was some disturbance, you know, a disturbance for a
(23) few days. This is what I recall.

(24) Q. Do you recall anything with respect to
(25) the National Labor Committee issuing a report on

(1) I. ARSLAN

(2) the Jordanian operation of Atateks?

(3) A. I heard, but it was nothing related. It
(4) was totally a Jordan issue. And at that time when
(5) I checked, our people also were -- in order to
(6) comfort the things, you know, Golden List -- there
(7) is a Golden List implementation from the Jordanian
(8) government for the companies having good labor or
(9) social activities, all these such things. So our
(10) company applied to Golden List, and one of the
(11) first companies, you know, having promoted to the
(12) list. And we are sensitive to such kinds of
(13) businesses.

(14) Q. Were you involved personally in dealing
(15) with such matters in Jordan?

(16) A. No.

(17) Q. Who was?

(18) A. At the time our general manager of --
(19) Ilhan.

(20) Q. Did Ilhan report to you any problems
(21) that the Target Company had with respect to the
(22) Jordanian operation of Atateks?

(23) A. I don't recall.

(24) Q. Do you recall anything with respect to
(25) Target putting the Atateks Jordanian operation on

(1) I. ARSLAN

(2) suspension?

(3) A. I don't recall. I don't know.

(4) Q. Do you recognize the name Target
(5) Company?

(6) A. Of course, of course.

(7) Q. And would you, for the record, state
(8) your understanding of the Target Company?

(9) A. Surely, surely.

(10) Q. What is Target Company?

(11) A. Target Company is a retail chain in the
(12) U.S. to which we sold good seamless garments. This
(13) is the business I remember with Target.

(14) Q. Do you recall if ever there came a time
(15) when the business with Target for seamless garments
(16) came to an end?

(17) A. I don't recall it. It was not Target,
(18) it was maybe Private Label Sourcing company is
(19) having problems.

(20) Q. Did you have any personal correspondence
(21) with anyone at Target Company?

(22) A. I don't remember.

(23) Q. Did you have any meetings with your
(24) brother, Ilhan, concerning Target Company?

(25) A. No.

(1) I. ARSLAN

(2) Q. Do you recall any meetings you had that
(3) concerned the subject of a reduced quantity of
(4) orders from Target?

(5) A. I don't recall.

(6) Q. In your capacity as chief officer or
(7) president of Atateks, do you deal with the subject
(8) at all in your ordinary course of work of
(9) chargebacks?

(10) A. I don't.

(11) Q. Do you understand what chargebacks
(12) concern?

(13) A. A kind of discount.

(14) Q. Discount, okay. Were you ever in a
(15) situation where you dealt with specific chargebacks
(16) by a customer of Atateks?

(17) A. No.

(18) Q. Who deals at Atateks with chargebacks?

(19) A. Business unit manager; general manager
(20) of each business.

(21) Q. Was that with respect to Private Label
(22) your brother, Ilhan?

(23) A. Yes.

(24) Q. Did he, to your recollection, ever
(25) consult with you concerning the subject of

(1) I. ARSLAN

(2) chargebacks and Private Label?

(3) A. He may have mentioned, but I don't
(4) remember. It was long time ago.

(5) Q. Do you recognize the name Basul
(6) (phonetic)?

(7) A. Yes.

(8) Q. What is Basul?

(9) A. Agent -- agent of Private Label
(10) Sourcing, agent of some other U.S. companies.

(11) Q. Was there a particular person at Basul
(12) that you dealt with?

(13) A. I remember I met the owner of Basul.

(14) Q. Did you have any meetings with that
(15) person mentioned with Private Label?

(16) A. Maybe, yes. Very few. She has an
(17) office in Istanbul. She was visiting our company,
(18) seamless company. I had some meetings from time to
(19) time with her.

(20) Q. What was the subject of those meetings?

(21) A. Oh, just general business. Nothing
(22) specific.

(23) Q. When you say "general business," do you
(24) mean more than just Private Label?

(25) A. Well, she represented Private Label.

(1) I. ARSLAN
(2) She represented Ragaga (phonetic). She was active
(3) -- she's an active lady and agent in the garment
(4) business long time. So having business talks,
(5) sharing things, you know, was good for both of us.

(6) Q. Do you recall any discussions you had
(7) with her with respect to Second Skin?

(8) A. Yes.

(9) Q. What were they?

(10) A. Second Skin is Christine Dente --
(11) another company, and some of that could be made via
(12) Second Skin.

(13) Q. Do you know of any purchase orders that
(14) were ever placed with Atateks by Second Skin?

(15) A. Well, I am -- not in such details, but I
(16) also remember Christine Dente, Second Skin is my
(17) other company. I have new company. I have
(18) problems with my ex-partner, blah, blah, kind of
(19) things.

(20) Q. When did she say that to you?

(21) A. She had two companies. Sorry?

(22) Q. When did she say that to you?

(23) A. I don't recall. At one of her visits to
(24) Turkey.

(25) Q. Do you recall Second Skin ever doing any

(1) I. ARSLAN

(2) business in seamless merchandise?

(3) MR. GRANNES: Objection to form.

(4) A. I don't know. I should check. I should
(5) check. A long time.

(6) Q. As president and chief officer of the

(7) Atateks Company, did you get involved in the means
(8) by which Atateks was paid with respect to garments
(9) shipped through or to Private Label?

(10) A. Sorry, can you repeat again?

(11) Q. Let me repeat it again.

(12) As president and chief officer of
(13) Atateks, were you involved in how arrangements were
(14) made at Atateks to be paid for the seamless
(15) garments for which Private Label had issued
(16) purchase orders?

(17) A. Well, personally, no. But our managers
(18) do handle such things.

(19) Q. When you say your managers handling such
(20) things, who handles such things with respect to
(21) Private Label?

(22) A. First, the general manager of the
(23) seamless company and the sales managers.

(24) Q. Who was the manager of the seamless
(25) company?

(1) I. ARSLAN

(2) A. Ilhan at the time.

(3) Q. Was there anyone else who had a
(4) responsibility at Atateks to be involved in how
(5) Atateks was paid?

(6) A. Yes.

(7) Q. Who was that?

(8) A. Our area sales manager, Bahash
(9) (phonetic). Maybe she was involved at the time or
(10) maybe her assistant sales executive was.

(11) Q. Did you --

(12) A. Basically, basically, our GM, general
(13) manager of the seamless company are responsible for
(14) such details for such follow-ups.

(15) Q. Were you involved at all in the payments
(16) made to Second Skin?

(17) A. I don't recall.

(18) Q. Were you involved at all in Atateks
(19) holding checks issued by Private Label in
(20) connection with payment of Atateks for goods
(21) shipped per the purchase orders placed by Private
(22) Label with Atateks?

(23) A. Can you explain because long question?

(24) Q. In the course of your duties as chief
(25) officer and president of Atateks, were you at all

(1) I. ARSLAN

(2) involved in the handling of checks provided by

(3) Private Label to Atateks to secure payment of

(4) Atateks?

(5) A. I was not involved, but I was being

(6) informed.

(7) Q. By whom?

(8) A. By the general manager of the seamless

(9) company, Ilhan.

(10) Q. Your brother?

(11) A. Yes.

(12) Q. Anyone else?

(13) A. Anyone else?

(14) Q. That gave you a report on the subject?

(15) A. Maybe sales manager of the seamless U.S.

(16) market.

(17) Q. Who was that?

(18) A. Bahar.

(19) Q. What do you recall your brother, Ilhan,

(20) telling you about the holding of checks issued by

(21) Private Label to Atateks to secure payment of

(22) Atateks?

(23) A. For some of the debt, for some of the

(24) debt. Some checks been received, but it was not

(25) covering the whole debt.

(1) I. ARSLAN

(2) Q. Do you recall your brother reporting
(3) anything else to you?

(4) A. Well, checks in our business
(5) understanding is very strong. If they bounce for
(6) some reason, there is risk of imprisonment in our
(7) Turkish market. So having received checks, we
(8) thought it would be business settlement.

(9) Q. Let me turn your attention to
(10) Defendant's Exhibit 8, which is on the first page a
(11) handwritten document.

(12) A. Sorry?

(13) Q. Could you turn your attention to
(14) Defendant's Exhibit 8, which is a handwritten
(15) document?

(16) A. Yes, in my hand.

(17) Q. Whose handwriting is this; do you
(18) recognize it?

(19) A. Well, this is -- I don't recognize
(20) but -- I don't recognize.

(21) Q. Do you see the name Ilhan Arslan?

(22) A. Yes, I see the name Ilhan Arslan. I see
(23) the name Iman Basul.

(24) Q. Do you see a signature below the name of
(25) Ilhan Arslan?

(1) I. ARSLAN

(2) A. Sorry.

(3) Q. Do you see a signature on that first

(4) page of Exhibit 8?

(5) A. Yes.

(6) Q. Do you recognize whose signature that

(7) is?

(8) A. It looks like Ilhan's signature.

(9) Q. Did you ever see this document before

(10) today?

(11) A. I don't remember.

(12) Q. When you say you don't remember, is it

(13) possible you did?

(14) A. It is also not possible.

(15) Q. Let me ask it this way: Do you have any

(16) recollection at all, any recollection of having

(17) seen that document before today?

(18) A. I don't. I don't.

(19) Q. Let me ask you to look again at the

(20) document for one last series of questions. Is the

(21) handwriting text in Turkish?

(22) A. Yes.

(23) Q. Is there a statement in that text that

(24) says that these checks will not be endorsed?

(25) MR. GRANNES: Objection to form.

(1) I. ARSLAN

(2) A. Yes, there is such a thing.

(3) Q. Did there come a time when Bahir

(4) provided checks in connection with the Private

(5) Label business?

(6) A. Sorry. Can you say it again?

(7) Q. Did there come a time that Bahir

(8) provided checks in connection with the Private

(9) Label business to secure Atateks' payment?

(10) A. Sorry?

(11) MR. GRANNES: We think it's Basul.

(12) Q. Did there come a time that Basul

(13) provided checks to Atateks?

(14) A. Sorry --

(15) Q. Did Basul provide checks to Atateks to

(16) secure Private Label payment?

(17) A. Yes.

(18) Q. Do you recall the circumstances of her

(19) doing so?

(20) A. I don't recall, but I wasn't -- they

(21) talked, but I don't know. I don't have details.

(22) Q. Do you know whether there was any

(23) consideration of her checks being able to be

(24) borrowed against by Atateks?

(25) A. Yes.

(1) I. ARSLAN

(2) Q. Let me ask you to look at Defendant's
(3) Exhibit 7. Do you have Defendant's Exhibit 7 in
(4) front of you?

(5) A. Yes, yes.

(6) Q. Do these checks appear to have been
(7) cancelled?

(8) A. It is written "cancelled." What does it
(9) mean?

(10) Q. Were you apprised of a practice of
(11) checks being provided by Private Label and those
(12) checks being cancelled after Private Label wired
(13) money to Atateks?

(14) A. I don't think so.

(15) Q. You don't think so. In --

(16) A. I don't think so.

(17) Q. Are you saying you don't think so that
(18) you were apprised or you don't think so because you
(19) don't think that happened?

(20) A. Can you be more explicit?

(21) Q. You said you don't think so. I was
(22) asking what you mean by "I don't think so."

(23) A. No, I said -- well, the checks being
(24) cancelled. I see the checks themselves, the
(25) written cancelled is -- I see them first time in

(1) I. ARSLAN

(2) this form. Whereas, I thought the checks were
(3) bounced.

(4) Q. Were you --

(5) A. I mean, they didn't have the money.

(6) They didn't have the money in the account -- in the
(7) account of Private Label Sourcing. So, hence, our
(8) people could not cash the checks.

(9) Q. Were you apprised that the Private Label
(10) checks were not to be cashed?

(11) A. They were not able to be cashed because
(12) there was no money in the account.

(13) Q. Were you apprised of the arrangement
(14) that those checks provided by Private Label were
(15) not to be cashed?

(16) A. Sorry. Say it again.

(17) Q. Were you apprised in your position --

(18) A. Was I --

(19) Q. Were you informed that the checks
(20) provided by Private Label were to be held and not
(21) cashed?

(22) A. There was no such a thing. The
(23) checks -- when you receive checks, the checks are
(24) supposed to be collected at the time from the bank.

(25) Q. Were you informed that there was a

(1) I. ARSLAN

(2) practice of providing checks which were held and

(3) then subsequently monies were wired resulting in

(4) the checks themselves being cancelled?

(5) A. Can you say again?

(6) Q. Okay. Let me try again.

(7) Were you informed that with respect to

(8) Private Label there was a practice of Private Label

(9) providing checks to Atateks for holding only and

(10) Private Label would thereafter wire the payment?

(11) A. There was no such a practice. As I was

(12) informed, there was no practice of Private Label

(13) giving away the checks and after making wire

(14) payment, you know, receiving the checks. There was

(15) no such a practice at all. The checks were given

(16) towards covering some of the debt, some of the debt

(17) of Private Label Sourcing to Atateks. And the

(18) checks were given at times -- at times designated

(19) such that Private Label was or would be able to

(20) make the payment which was much overdue. More than

(21) one year overdue.

(22) MR. GRANNES: I wouldn't pursue it --

(23) off the record.

(24) (Discussion held off the record.)

(25) Q. Have you ever given a deposition before?

(1) I. ARSLAN

(2) A. No, first time.

(3) Q. Have you ever testified in a court trial

(4) before?

(5) A. Sure, yes in Turkey.

(6) Q. Ever in the United States?

(7) A. No.

(8) Q. In Turkey, let me just ask: How is the

(9) procedure handled in terms of your testifying at a

(10) trial?

(11) A. In terms of?

(12) Q. In Turkey --

(13) MR. ARSLAN: In terms of testify --

(14) Q. In terms of testifying, can you describe

(15) the process of testifying in a trial in Turkey?

(16) A. Well, we go to the court and they ask

(17) questions; we give our answers.

(18) Q. Do you get sworn in as a witness in

(19) Turkish court?

(20) A. Sure, of course, we have to be sworn in,

(21) yes.

(22) Q. Who asks the questions?

(23) A. Judge or lawyers.

(24) Q. Is that experience in any way similar to

(25) what we are doing now?

(1) I. ARSLAN

(2) A. Yes.

(3) Q. As the president and chief officer of
(4) Atateks, were you aware of any general contract
(5) between Atateks and Private Label?

(6) A. No.

(7) Q. Was your understanding that what
(8) business Private Label and Atateks did was done by
(9) the placement of purchase orders by Private Label?

(10) A. Say it again, please.

(11) Q. Was your understanding of what business
(12) that Private Label and the Atateks company did was
(13) by the placement of purchase orders by Private
(14) Label with Atateks?

(15) A. I don't know such details.

(16) Q. When you say "details," you mean how the
(17) business is conducted?

(18) A. Usually, the business is by letter of
(19) credit. When there is an order, we receive -- we
(20) receive the orders through letter of credit.

(21) Q. Was there a letter of credit, to your
(22) knowledge, with respect to Private Label?

(23) A. I don't recall.

(24) Q. Do you recall Target ever putting up a
(25) letter of credit?

(1) I. ARSLAN

(2) A. Yes.

(3) Q. Was Atateks paid through that letter of

(4) credit?

(5) A. Yes.

(6) Q. Were you involved at all in the work of

(7) having Atateks pay on that Target letter of credit?

(8) A. No.

(9) Q. Who was responsible for that?

(10) A. General manager.

(11) Q. And in the case of Private Label, who

(12) was that?

(13) A. Ilhan.

(14) Q. When you referred a moment ago to

(15) orders, do you mean the purchase orders that were

(16) issued by Private Label to Atateks?

(17) A. Can you say again?

(18) Q. I understood your testimony to include

(19) reference to orders, when orders were placed there

(20) would be a letter of credit to pay Atateks. My

(21) question was: With respect to your use of the word

(22) "orders," do you mean orders that are placed by, in

(23) this case, Private Label, by purchase order?

(24) A. I don't recall that.

(25) Q. Do you recall generally the volume of

(1) I. ARSLAN
(2) business that on an annual basis Private Label and
(3) Atateks did before late 2006?

(4) A. I don't. I don't know.

(5) Q. Was that something that was handled by
(6) the business manager?

(7) A. Sure.

(8) Q. Let me ask you some cleanup questions,
(9) what we call cleanup questions.

(10) Did you ever recall reading a report by
(11) the National Labor Committee concerning the Latat
(12) (phonetic) garment factory in Jordan?

(13) A. I may have read on it. I may have read
(14) it. It's a long time ago.

(15) Q. Would you please look at Defendant's
(16) Exhibit 2?

(17) A. Yes.

(18) Q. Do you recall reading this document at
(19) some point?

(20) A. I don't.

(21) Q. Do you recall ever being advised by your
(22) brother, or anyone else, as to what the National
(23) Labor Committee was saying about the Atateks
(24) factory in Jordan?

(25) A. Yes, they informed me.

(1) I. ARSLAN

(2) Q. What did they tell you?

(3) A. That there is some disturbance in Jordan
(4) and we are also affected for a few days. And we
(5) did apply for our explanation to the Golden List
(6) and we received SAB (phonetic), which is an
(7) internal certificate for the manufacturers for the
(8) social activity, you know, how good they are.

(9) Q. Were you told about any factory audit by
(10) Target?

(11) A. I don't know.

(12) Q. Let me ask you to look at Defendant's
(13) Exhibit 4.

(14) A. Yes.

(15) Q. Do you recall ever being given a copy of
(16) this document and reviewing it before today?

(17) A. No. First time I see it.

(18) Q. Let me ask you to turn to Defendant's
(19) Exhibit 5.

(20) A. Yes.

(21) Q. Which is an invoice for chargebacks. In
(22) the course of your duties as president and chief
(23) officer of the Atateks Company, did you deal with
(24) these kind of documents that are marked as
(25) Defendant's Exhibit 5?

(1) I. ARSLAN

(2) A. No.

(3) Q. You say you didn't deal with this kind
(4) of document, correct?

(5) A. I didn't see and I don't deal in this
(6) kind of discrepancies. I see them first time here.

(7) Q. I understand. That's okay.

(8) As the president and chief officer of
(9) the Atateks Company, did you get involved in the
(10) subject of customer allowances?

(11) A. No.

(12) Q. As president and chief officer of
(13) Atateks Company, did you get involved at all in the
(14) payment of commissions with respect to particular
(15) orders?

(16) A. I have sometimes been informed, but I
(17) don't get involved.

(18) Q. Who informs you?

(19) A. GM, general manager of the business
(20) union.

(21) Q. With respect to the seamless business,
(22) who was that?

(23) A. Ilhan.

(24) Q. Let me ask you to look at Defendant's
(25) Exhibit 9. Exhibit 9 is an invoice relating to

(1) I. ARSLAN
(2) customer allowances. In the course of your duties
(3) as chief officer and president of the Atateks
(4) Company, did you deal with this kind of document
(5) that we have marked as Defendant's Exhibit 9?

(6) A. No, I don't.

(7) Q. Did you ever see before today, the
(8) documents marked as Defendant's Exhibit 9?

(9) A. No.

(10) Q. Let me ask you to look at Defendant's
(11) Exhibit 10.

(12) A. Yes.

(13) Q. Do you recognize who Mehmet
(14) C-A-R-A-N-E-L is; do you recognize --

(15) A. Yes, I remember.

(16) Q. Who was he?

(17) A. He's our export director.

(18) Q. Before today, did you ever see this
(19) August 29, 2005 letter?

(20) A. Yes, I saw it.

(21) Q. When --

(22) A. Yes, I saw it.

(23) Q. At the time or about the time?

(24) A. I don't remember at the time, but I saw
(25) this kind of important things. They bring and they

(1) I. ARSLAN

(2) show me.

(3) Q. What do you recall with respect to
(4) Defendant's Exhibit 10?

(5) A. Payment to Christine Dente.

(6) Q. Who informed you of this document,
(7) Defendant's Exhibit 10?

(8) A. Well, maybe Mehmet, the person on the
(9) written -- or the general manager of the business
(10) unit.

(11) Q. Do you have a specific recollection of
(12) who it was, whether it was the general manager or
(13) whether it was Mehmet?

(14) A. It was maybe Mehmet.

(15) Q. Do you recall how it was that Mehmet
(16) informed you about this document, Defendant's
(17) Exhibit 10?

(18) A. He either called me or he brought the
(19) letter before sending out.

(20) Q. Do you recall Mehmet saying anything to
(21) you about the letter?

(22) A. This is a big amount, big amount of
(23) money to be paid and Mehmet is a person, you know,
(24) feeling very responsible to explain such big amount
(25) for this transfer. He informs.

(1) I. ARSLAN

(2) Q. What did he explain to you at the time
(3) about this particular payment?

(4) A. Making payment to the name Christine
(5) Dente.

(6) Q. Did he explain to you what the
(7) commission fee was for?

(8) A. Well, commission for the business.

(9) Sometimes Christine Dente was asking -- was asking
(10) some money for her personal needs, as well.

(11) Q. Do you have any specific recollection
(12) what this specific fee was for that's reflected in
(13) Defendant's Exhibit 10?

(14) A. I'm sorry. Can you repeat again?

(15) Q. Do you have any specific recollection of
(16) what this specific commission payment was for that
(17) is reflected in Defendant's Exhibit 10, Mehmet's
(18) letter?

(19) A. I don't remember.

(20) Q. Can you identify a company by the name
(21) of Morera U.S.A. -- M-O-R-E-R-A?

(22) A. Yes.

(23) Q. What company is that?

(24) A. It's our company in the U.S., our
(25) brand -- seamless brand. It is our brand and it is

(1) I. ARSLAN

(2) also the name of our company in the U.S.

(3) Q. Were you ever informed that there was a
(4) cancellation of an order by Target Company?

(5) A. No.

(6) Q. Were you ever informed about Morera
(7) selling off what had been cancelled garments by
(8) Target?

(9) A. I don't. I don't know. I don't recall.

(10) Q. Was that something that you were not
(11) involved in as a chief officer and president of
(12) Atateks?

(13) A. Yes.

(14) Q. As chief officer and president of
(15) Atateks, are you aware of any purchase of goods by
(16) Second Skin from Atateks?

(17) MR. GRANNES: Objection to form.

(18) MR. BYLER: What is the objection?

(19) MR. GRANNES: Well, I don't know if you
(20) want this on the record. Off the record.

(21) (Discussion held off the record.)

(22) Q. Let me rephrase the question. I don't
(23) want an unnecessary objection.

(24) As president and chief officer of the
(25) Atateks Company, were you aware of any purchase

(1) I. ARSLAN

(2) orders of garments placed by Second Skin with

(3) Atateks?

(4) A. I don't follow such details. I know the

(5) company -- excuse me, I know the company, Second

(6) Skin.

(7) MR. BYLER: Let's take a brief recess.

(8) (Recess taken.)

(9) Q. Where we left off, I understand you know

(10) the company Second Skin. That was my last

(11) question, assuming you did understand the company

(12) Second Skin.

(13) As president and chief officer of the

(14) Atateks Company, did you know of any delivery of

(15) seamless garments to Second Skin?

(16) A. I don't remember.

(17) Q. As president or chief officer of the

(18) Atateks Company, were you aware of any commissions

(19) or other kind of payment made to Second Skin by

(20) Atateks?

(21) A. I have to check.

(22) Q. Were you involved in such payments

(23) yourself, in terms of the operations of the Atateks

(24) business?

(25) A. I don't recall.

(1) I. ARSLAN

(2) MR. ARSLAN: Excuse me, can I add
(3) something?

(4) MR. GRANNES: No, you are not supposed
(5) to do that.

(6) Q. Let me ask you this: Is your brother,
(7) Ilhan, still with the Atateks Company?

(8) A. No.

(9) Q. What happened?

(10) A. He has set up his own independent
(11) company.

(12) Q. Was there any reason relating to Atateks
(13) that your brother decided to set up his own
(14) company?

(15) A. To make more money by himself.

(16) Q. Did you get into an argument with your
(17) brother before he left?

(18) A. No, no.

(19) Q. Today, who owns Atateks?

(20) A. Today? Me. Myself.

(21) Q. Does your brother have any ownership
(22) shares in Atateks?

(23) A. At the moment, no.

(24) Q. Was there a time that he did?

(25) A. Yes.

(1) I. ARSLAN

(2) Q. When was that?

(3) A. I don't recall.

(4) Q. How much did he have?

(5) A. I have to check.

(6) Q. Did you buy those shares from him?

(7) A. I have to check again. I have to check

(8) with the accounting.

(9) Q. Other than you and your wife, is there

(10) anybody else who owns any part of the Atateks

(11) Company?

(12) A. Sorry?

(13) Q. Other than your wife and you, is there

(14) anybody else who owns any part of the Atateks

(15) Company?

(16) A. Yes, there are three others. There are

(17) three others, but I own 97 -- 96 or 97 percent of

(18) the company.

(19) Q. And the other three percent is owned by

(20) those other people?

(21) A. Wife and other people, yes.

(22) Q. You include in those other people your

(23) wife?

(24) A. Yes.

(25) MR. GRANNES: We are done now. There

(1) I. ARSLAN
(2) are no more questions for you. Thank you.
(3) THE WITNESS: Thank you.
(4) (Thereupon, the deposition was concluded
(5) at 10:31 A.M.)
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(1)

(2) A C K N O W L E D G M E N T

(3)

(4) STATE OF NEW YORK)

(5) :ss

(6) COUNTY OF NEW YORK)

(7)

(8) I, IHSAN ARSLAN, hereby certify that I have read
(9) the transcript of my testimony taken under oath on May
(10) 27, 2008; that the transcript is a true, complete and
(11) correct record of what was asked, answered and said
(12) during this deposition, and that the answers on the
(13) record as given by me are true and correct.

(14)

(15)

(16)

ISAHN ARSLAN

(17)

(18)

Signed and subscribed to
before me this _____ day
of _____, 2008.

(19)

(20)

(21)

Notary Public

(22)

(23)

(24)

(25)

(1)

(2) C E R T I F I C A T E

(3)

(4) STATE OF NEW YORK)

(5) :ss

(6) COUNTY OF NEW YORK)

(7)

(8) I, NANCY SILBERGER, a Notary Public within
(9) and for the State of New York, do hereby certify:(10) That the witness whose examination is
(11) hereinbefore set forth was duly sworn and that such an
(12) examination is a true record of the testimony give by
(13) such a witness.(14) I further certify that I am not related to
(15) any of these parties to this action by blood or
(16) marriage, and that I am not in any way interested in the
(17) outcome of this matter.(18) IN WITNESS WHEREOF, I have hereunto set my
(19) hand this DATE day of MONTH, 2008.

(20)

(21) -----

(22) NANCY SILBERGER

(23)

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(4)	WITNESS:	EXAMINATION BY:	PAGES:
(5)	Ihsan Arslan	Mr. Byler	4
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